

REMARKS

Claims 1-10 continue to be pending in this patent application. Claims 3, 8 and 9 are presently identified as being withdrawn, subject to the Examiner's determination of whether the restriction requirement in this application is made final.

In this paper, the claim 4 has been amended to depend solely from claim 2. Also, unnecessary reference characters in the claims have been deleted.

The Examiner has required an election in the present application between:

Species 1, wherein the capacity of the exhaust-air fan depends on the operating state of the dishwasher; and

Species 2, wherein the capacity of the exhaust-air fan depends on the position of the closing elements.

For the purpose of examination of the present application, Applicants elect Species 1, with traverse.

Claim(s) 1, 2, 4-7 and 10 are directed to the elected species. As acknowledged by the Examiner, at least claims 1 and 6 are generic.

Applicants respectfully request that the Examiner reconsider and withdraw the requirement for an election of species as stated in the last Office Action. Applicants submit that a search of the claims readable on one of the species would also entail searching in areas relevant to the claims readable on the other species. Accordingly, Applicants submit that examining claims to all of the species in one application would make efficient use of resources available to the Examiner and would not place an undue burden on the Examiner. In any event, when allowable subject matter is recognized by the Examiner, Applicants request that the search and examination of the subject matter in this application extend to include the subject matter of presently non-elected Species 2.

Application No.: 10/581,250
Election of Species dated September 21, 2009

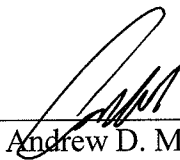
Docket No.: 4266-0121PUS1

If unresolved matters remain in this application, the Examiner is invited to contact Frederick R. Handren, Reg. No. 32,874, at the telephone number provided below, so that these matters can be addressed and resolved expeditiously.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Dated: September 21, 2009

Respectfully submitted,

By  _____
Andrew D. Meikle

Registration No.: 32,868

BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant